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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/846,521	04/30/2001	David Matheny	10559-380001	5533
20985 7590 01/25/2008 FISH & RICHARDSON, PC P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022				
EXAMINER				
SWEARINGEN, JEFFREY R				
ART UNIT		PAPER NUMBER		
2145				
MAIL DATE		DELIVERY MODE		
01/25/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/846,521

Applicant(s)

MATHENY ET AL.

Examiner

Jeffrey R. Swearingen

Art Unit

2145

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16 and 18-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16 and 18-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C2)
- Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/17/07 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 16 and 18-26 have been considered but are moot in view of the new ground(s) of rejection.

Specification

3. The disclosure is objected to because of the following informalities: Applicant claimed instructions residing on a computer-readable medium, yet failed to describe or define what Applicant intends to encompass by a computer-readable medium within the specification. This is insufficient antecedent basis within the specification for the claimed article, including instructions residing on a computer-readable medium.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

5. Claims 16 and 18-26 are rejected under 35 U.S.C. 102(a) as being anticipated by Hemphill et al. (US 6,167,448).

6. In regard to claim 16, Hemphill disclosed:

receive discovery data collected from a discoverable network device by two or more discovery agents; column 4, lines 6-15

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aggregate said discovery data; column 3, line 65 – column 4, line 3

generate a relationship file characterizing relationships among discoverable network devices identified by the two or more discovery agents; column 4, lines 15-17

coalesce the discovery data in a software file comprising a discovery document, said discovery data including two or more duplicate data entries, wherein each of the duplicate entries relates to a discoverable network device identified by the two or more discovery agents; and column 4, lines 45-52

remove all but one of the duplicate data entries from the discovery document. Column 3, line 54 – column 4, line 3

7. In regard to claim 18, Hemphill disclosed:

the instructions that cause the computer to receive discovery data comprise instructions that cause the computer to call said two or more discovery agents from an agent directory.

Column 4, lines 41-45

8. In regard to claim 19, Hemphill disclosed:

the instructions that cause the computer to aggregate said data comprise instructions that cause the computer to call two or more aggregator agents listed in an agent directory. Column 4, lines 41-45; column 3, line 54 – column 4, line 3

9. In regard to claim 20, Hemphill disclosed:

the agent directory comprises a plurality of Extensible Markup Language (XML) files.

Column 8, line 67

10. In regard to claim 21, Hemphill disclosed:

the instructions that cause the computer to remove all but one of the duplicate entries comprise instructions that cause the computer to:

identify two or more agents responsible for generating the two or more duplicate data entries, each agent having a priority value; column 4, lines 60-65

compare the priority values of the two or more agents; column 4, lines 60-65

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identify a first agent having a highest priority, said first agent responsible for generating a first duplicate data entry in the two or more duplicate data entries; and column 4, lines 60-65; column 3, line 65 – column 4, line 3

remove all but the first duplicate data entry. Column 3, line 65 – column 4, line 3

11. In regard to claim 22, Hemphill disclosed:

the two or more agents are discovery agents. Column 4, lines 41-45

12. In regard to claim 23, Hemphill disclosed:

the two or more agents are aggregator agents. Column 3, line 65 – column 4, line 3; column 4, lines 32-57

13. In regard to claim 24, Hemphill disclosed:

the discovery document is an Extensible Markup Language (XML) file. Column 4, lines 15-17; column 4, lines 45-48; column 8, line 67

14. In regard to claim 25, Hemphill disclosed:

the instructions that cause the computer to receive discovery data comprise instructions that cause the computer to receive discovery data collected from two or more discoverable network devices by said second two or more discovery agents. Column 4, lines 32-57

15. In regard to claim 26, Hemphill disclosed:

store the discovery document in a discovery database; and column 4, lines 45-57 generate a key for each discovered discoverable network device in the discovery document. Column 4, lines 45-57

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey R. Swearingen whose telephone number is (571)272-3921. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on 571-272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jeffrey R. Swearingen
Examiner
Art Unit 2145

JRS

/Jason D Cardone/
Supervisory Patent Examiner, Art Unit 2145